



Department of Defense DIRECTIVE

October 14, 1986
NUMBER 3230.3

USDR&E

SUBJECT : DoD Support for Commercial Space Launch Activities

- References:
- (a) Public Law 98-575, "Commercial Space Launch Act, " 49 U. S.C. §§ 2601-23, October 30, 1984
 - (b) National Security Decision Directive 94, "Commercialization of Expendable Launch Vehicles," May 16, 1983
 - (c) Interim Final Licensing Regulations, 14 CFR CH. III, Vol 51, No. 38, 6870-83, February 26, 1986
 - (d) Secretary of Defense approval of March 26, 1985 **SAF/US** Memorandum to Secretary of Defense, April 4, 1985
 - (e) Secretary of Defense Memorandum, "Commercialization of Expendable Launch Vehicles (ELV) ," April 18, 1984
 - (f) DoD Directive 3200.11, "Major Range and Test Facility Base, " September 29, 1980
 - (g) through (m) , see enclosure 1

A. PURPOSE

1. This Directive implements references (a) , (b), and (c) and the guidance contained in references (d), (e), and (f) by establishing policies, procedures and waivers to be used in providing DoD support for commercial expendable space launch activities.

2. This Directive sets policy for assisting and consulting with the Department of Transportation (DoT) on requirements concerning public health and safety, safety of property, and national security.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD); the Military Departments; the Organization of the Joint Chiefs of Staff (OJCS); the Unified and Specified Commands; Inspector General, Department of Defense (IG,DoD); and the-Defense Agencies (hereafter referred to collectively as "DoD Components") .

C. DEFINITIONS

1. Launch Property. Propellants, launch vehicles and components thereof, and other physical items (e.g. , launch facilities) constructed for, or used in, the launch preparation or launch of a launch vehicle.

2. Launch Services. **Those activities** involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch.

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3. Person. Any individual and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of ~~the~~ United States .

D. POLICY

It is DoD policy to:

1. Encourage the U.S. private sector development of commercial launch operations .

2. Endorse fully and facilitate the commercialization of U.S. Expendable Launch Vehicles (ELV'S), consistent with U.S. economic, foreign policy and national security interests.

3. Assist the Department of Transportation, Office of Commercial Space Transportation, in implementing and achieving the objectives of the Commercial Space Launch Act (reference (a)) and the Interim Final Licensing Regulations (reference (c)).

4. Require appropriate reimbursement from persons authorized to acquire DoD launch property or launch services. (See enclosure 2.)

5. Implement those policies and waivers (enclosure 3) granted for support of commercial expendable launch vehicles, as approved by the Secretary of Defense. Any further deviations (waivers) necessary in support of commercial space launch activities will be submitted in accordance with the Federal Acquisition Regulation (FAR) and the DoD FAR Supplement, subpart 1.4 (reference (g) and (h)).

a. Direct cost for support provided to commercial space launch activities was implemented effective April 24, 1985, except for transactions already substantially completed on that date and meeting the criteria of reference (a). The use of a direct cost pricing for launches of **non-DoD** ELV'S prior to FY 86 will only apply to those launches that have not been included in the budget planning.

b. In accordance with reference (a), U.S. Commercial ELV operators may be provided use of DoD-owned equipment not needed for public use or on a non-interference basis. Cost for this use will be direct cost (**including** any specific wear and tear and damage to the property) the Government incurs as a result of such use. Government-owned production facilities or equipment will be made available on a similar basis, with terms to be set on a **contract-by-contract** basis by the Secretary of the Air Force with agreement of the affected Service Secretary. If purchase of government-owned equipment is requested by a U.S. Commercial ELV operator, it will be accomplished under a waiver obtained from the General Services Administration. The Air Force, with support of the Service who owns the equipment to be purchased, will be the agent of the government to conduct the sales transaction:

c. The use of DoD employees in quality assurance (QA) or contract administration services (CAS) positions (e.g., Defense Contract Administration Services Regions (DCASRs), Air Force Contract Management Division (AFCMD)) in

direct employment of "for profit" manufacturers of **ELV's** is not in the Government's best interest. No DoD personnel may perform functions listed as **contract** administration functions in the Federal Acquisition Regulation (reference (g)) under the commercial ELV program, except to assure that commercial ELV'S are produced to standards that would permit DoD use of an ELV for priority national security missions.

E. RESPONSIBILITIES

1. The Deputy Under Secretary of Defense for Strategic and Theater Nuclear Forces(DUSD(S&TNF)) has the primary responsibility for providing DoD coordination to the DoT on matters arising from the commercial operations of expendable launch vehicles (**ELV's**) that affect national security interests of the United States.

2. The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall have primary responsibility for establishing procedures associated with the pricing and disposition of collections concerning DoD support for commercial launch activities (enclosure 2) and providing additional guidance to the DoD Components as necessary.

3. The Secretary of the Air Force has primary responsibility for establishing procedures within the DoD Components and with other agencies regarding the use of DoD launch property and launch services by the private sector.

4. The Heads of DoD Components shall:

a. Take actions at the request of the Secretary of the Air Force in **furthering** the objectives of the Commercial Space Launch Act (reference (a)).

b. Implement the procedures for pricing and disposition of collections as defined by the **ASD(C)** in enclosure 2.

c. In consultation with the DoT, establish such liability insurance requirements, hold harmless agreements, and other assurances as are necessary to ensure full protection of the Government's interests.

d. Consult with the DoT regarding those requirements involving DoD facilities, activities, or concerns to ensure public health and safety, and the safety of property, as related to the commercial operation of **ELV's**.

e. Ensure that commercial operators comply with the safety requirements at the Test Ranges/Centers in accordance with the responsibilities under DoD Directive 3200.11 (reference (f)).

f. Identify to the **DUSD(S&TNF)** those national security interests of the United States that may be affected by proposed commercial space launch activities.

F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. DoD Components shall forward two copies of implementing documents to the Deputy Under Secretary of Defense for Strategic and Theater Nuclear Forces within 180 days.


William H. Taft IV
Deputy Secretary of Defense

Enclosures - 3

1. References
2. Pricing and Disposition of Collections for
Commercial Space Launch Program
3. DoD Waivers

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REFERENCES (Cent' d)

- (g) Federal Acquisition Regulation (FAR), April 1, 1984
- (h) DoD Supplement to the Federal Acquisition Regulation, April 1, 1984
- (i) DoD Instruction 7310.1, "Disposition of Proceeds from Sales of DoD Excess and Surplus Personal Property," November **15, 1984**
- (j) DoD Directive 7200.1, "Administrative Control of Appropriations," May 7, 1984
- (k) DoD Instruction 7230.7, "User Charges," **January 29, 1985**
- (l) DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology," August 5, **1985**
- (m) Title 40, United States Code, Section 484

Pricing and Disposition of Collections
for
Commercial Space Launch Program

A. PRICING. Reimbursement charges for persons acquiring space launch property or launch services are as follows:

<u>Type of Acquisition</u>	<u>Launch Property</u>	<u>Launch Services</u>
Sale or transaction in lieu of sale	Fair market value	Direct costs
Lease	Direct costs	Direct costs
Other	Direct costs	Direct costs

1. Launch Property.

a. Fair market value will be applied, subject to two constraints:

(1) All sales should guarantee a reasonable return to the Federal Government; and

(2) The Federal Government should provide no direct subsidies.

b. Leases. Direct costs shall be based on the sum of:

(1) The direct costs incurred by the Department of Defense in providing the equipment, and

(2) The direct costs required to replace or restore the property or site to its condition before the lease or use.

2. Launch Services. The reimbursement shall equal the direct costs incurred by the Department of Defense, unambiguously identified with the particular launch support. Direct costs include United States Government civilian and contractor labor, material, minor construction, utilities, equipment, supplies, transvortation, and **any** other resources damaged or consumed in providing the launch services. **Direct** costs, including DoD labor, shall be costed in **accor-**dance with paragraph E.3.a. of DoD Directive 3200.11 (reference (f)).

B. DISPOSITION OF COLLECTIONS.

1. Collections for sale of excess launch property shall be deposited into Miscellaneous Receipts Accounts in accordance with DoD Instruction 7310.1 (reference (i)).

2. Collections for DoD services and nonexcess property shall be credited to the most current applicable component financing appropriation, from which the cost of providing such services or property was paid.

C. RECOGNITION OF BUDGET AUTHORITY. Budget authority shall be recognized in accordance with subsection 1.4.-of DoD Directive 7200.1 (reference (j)).

DOD WAIVERS

1. DoD Directive 3200.11, "Major Range and Test Facility Base" (reference (f)). Waive paragraphs **E.3.b.**, **E.3.c.** for all U.S. Government and U.S. commercial ELV launches. Pricing for all U.S. Government and U.S. commercial ELV launches will comply with paragraph **E.3.a.** on direct cost.
2. DoD Instruction 7230.7, "User Charges," (reference (k)). Waive recoupments from U.S. commercial **ELV** operators for other than direct costs.
3. DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology" (reference (l)). Waive recoupments from U.S. commercial ELV operators required by DoD Directive 2140.2 (reference (l)).
4. DoD FAR Supplement, Subpart 35.71, "Recovery of Nonrecurring Cost on Commercial Sales of Defense Products and Technology," (reference (h)). Waive recoupments of nonrecurring and development cost for Government ELV development from U.S. commercial ELV operators required by DoD FAR Supplement Subpart 35.71 (reference (h)).
5. FAR para 45.407(a) (was DAR 13-404), "Non-Government use of Plant Equipment" (reference (g)). Waive requirement for Agency Head approval for use of Government equipment by non-Government organization. Approval may be made by the head of the activity providing the use.
6. FAR, para 45.603, "Disposal Methods" (reference (g)). Allows the sale of dedicated expendable launch (**ELV**) equipment directly to commercial ELV operators.
7. FAR, para 45.610-2, "Exemptions from sale by GSA" (reference (g)). Pursuant to 40 **U.S.C. §§484(e)(3)(B)** and 484(e)(5) (reference (m)) or other **applicable** provisions of the Federal Property and Administrative Services Act, the Air Force will request delegation of competitive and negotiated disposal authority from GSA for real and personal property dealing with surplus ELV production equipment.